

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5819 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

GAMBHIRSINGH J VAGHELA

Appearance:

MR SM MAZGAONKAR for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/02/98

ORAL JUDGEMENT

1. Gujarat State Road Transport Corporation, by this special civil application, challenges the award of the Industrial Tribunal, Gujarat, in Reference (IT) No.45 of 1982 decided on 16th August, 1984, under which the order for recovery of Rs.948/- passed against the respondent-workman by the Corporation has been set aside and the Corporation was directed to refund the said amount to the petitioner.

2. The respondent-workman was Conductor in the Corporation. On 16th February, 1976, he was on duty on a bus from Morvi to Ahmedabad. During his duty as a Conductor on the bus plying from Morvi to Ahmedabad, one parcel was lost and after holding an inquiry, the respondent-workman was found to be negligent for the same, and order for recovery of Rs.948/- and cost of parcel was made against the respondent-workman. The respondent-workman has filed departmental appeal but that has been dismissed, and as such, he raised an industrial dispute, which has been referred to the Industrial Tribunal by the Government, and under the impugned order of the Industrial Tribunal the said order has been quashed and set aside. Hence, this special civil application.

3. The learned counsel for the petitioner contended that the Tribunal should not have interfered with the order passed by the Corporation as it was a clear case of negligence on the part of the respondent-workman, which has resulted in the loss of parcel and consequential financial loss to the Corporation. It has next been contended that otherwise also looking to the default chart of the petitioner, the Tribunal should not have interfered in the matter.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner.

5. So far as the second ground of challenge to the award is concerned, it is suffice to say that I do not find that any such point has been raised by the Corporation, and as such, no new point can be permitted to be raised in the proceedings under Article 227 of the Constitution.

6. So far as the first contention is concerned, it is suffice to say that the Tribunal on the basis of appreciation of the evidence and particularly keeping in view one fact that the respondent-workman had not been provided with the rope by the Corporation to tie the parcels held that for the lost of parcel the respondent-workman cannot be held to be negligent, interfered with the order of the Corporation for recovery of Rs.948/- from the respondent-workman. It is a question of simple appreciation of evidence and in case where the Tribunal has found that the negligence is not attributable to the respondent-workman, then sitting under Article 227 of the Constitution, this Court will

not interfere in the matter. Even if it is taken that on the basis of same set of evidence, two views are possible still in the view taken by the Tribunal, this Court will not interfere. The award of the Industrial Tribunal cannot be said to be perverse on the face of it.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged.

zgs/-